

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,	:	
	:	
vs.	:	CRIMINAL CASE
	:	No. 1:05-CR-543 (JEC)
RICHARD ONG	:	

**DEFENDANT'S PRELIMINARY MOTION
TO SUPPRESS EVIDENCE**

Comes now, RICHARD ONG, Defendant in the above-styled action, by and through undersigned counsel and Moves this Court to Suppress Evidence seized as a result of a warrantless search and seizure. In support of this Motion, Mr. Ong shows as follows:

(1)

Mr. Ong is one of a number of individuals named in a multi-count indictment alleging various drug related offenses.

(2)

Upon information and belief, law enforcement conducted a warrantless search of Mr. Ong and/or his residence or vehicle during which a quantity of drugs were seized.

(3)

Mr. Ong urges this Court to conduct an evidentiary hearing in the above-styled case to determine if the warrantless search of Mr. Ong and his residence or vehicle was violative of the Fourth Amendment to the United States Constitution.

(4)

It is well settled that "searches undertaken without a warrant issued upon probable cause are '*per se* unreasonable ... subject only to a few specifically established and well-delineated exceptions, [one of which is the automobile exception.]" *United States v. Alexander*, 835 F.2d 1406, 1408 (11th Cir. 1988), quoting *Katz v. United States*, 389 U.S. 347, 357, 88 S.Ct. 507, 514, 19 L.Ed.2d 576 (1967).

The Government must still shoulder the burden of proving there was (1) probable cause to stop the vehicle and search it and that (2) exigent circumstances mandated the search and seizure. *See Chambers v. Maroney*, 399 U.S. 42, 90 S.Ct. 1975, 26 L.Ed. 2d 419 (1970).

WHEREFORE, this Court should set down a time to have a hearing on the matter so that all events leading up to and including the search and seizure can be explored by this Court.

Dated, this the 5th day of May, 2006.

Respectfully submitted,

s/Sandra Michaels
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CERTIFICATE OF SERVICE

This is to certify that the foregoing pleading is formatted in Times New Roman, 14 point, in compliance with Local Rule 5.1, electronically filed and served upon:

Stephanie Gabay-Smith, Esq.
Assistant United States Attorney
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Dated this the 5th day of May 2006.

s/Sandra Michaels
SANDRA MICHAELS